

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
SOUTHERN DIVISION**

KEITH LA'DALE PORTER

PETITIONER

v.

CAUSE NO. 1:19CV434-LG-JCG

**JOE ERRINGTON,
Superintendent of South
Mississippi Correctional
Institution**

RESPONDENT

**ORDER ADOPTING REPORT AND RECOMMENDATIONS
AND GRANTING RESPONDENT'S MOTION TO DISMISS**

BEFORE THE COURT is the [14] Report and Recommendation entered by United States Magistrate Judge John C. Gargiulo on March 9, 2020. Judge Gargiulo recommends that the [10] Motion to Dismiss filed by the respondent, Joe Errington, should be granted because the petitioner's claims are procedurally barred. The petitioner has not filed an objection to the Report and Recommendation and the time for filing an objection has expired.

Where no party has objected to the Magistrate Judge's report and recommendation, the Court need not conduct a de novo review of it. *See* 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.") In such cases, the Court need only satisfy itself that there is no clear error on the face of the record. *Douglass v. United Serv. Auto Ass'n*, 79 F.3d 1415, 1420 (5th Cir. 1996). Having conducted the required review, the Court finds that Judge Gargiulo's Report and Recommendation is neither clearly erroneous nor

contrary to law. The respondent's Motion to Dismiss is granted, and the petitioner's petition for a writ of habeas corpus is dismissed with prejudice.

IT IS, THEREFORE, ORDERED AND ADJUDGED the [14] Report and Recommendation entered by United States Magistrate Judge John C. Gargiulo is **ADOPTED** as the opinion of the Court.

IT IS, FURTHER, ORDERED AND ADJUDGED that the [10] Motion to Dismiss filed by the respondent is **GRANTED**. The petition for writ of habeas corpus is **DISMISSED WITH PREJUDICE**.

SO ORDERED AND ADJUDGED this the 9th day of April, 2020.

s/ *Louis Guirola, Jr.*

LOUIS GUIROLA, JR.
UNITED STATES DISTRICT JUDGE